



BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2023-0279; FRL-10989-01-R7]

**Air Plan Approval; Missouri; Revisions to the Cross-State
Air Pollution Rule SO₂ Group 1 Trading Program**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval of revisions to the State Implementation Plan (SIP) submitted on November 29, 2021, by the State of Missouri. Missouri requests EPA approve revisions to a state regulation related to the Cross-State Air Pollution Rule SO₂ Group 1 Trading Program. These revisions include reallocating SO₂ emission allowances from a recently retired emission unit to the original emission unit for which they were designated. Additionally, the revisions clarify rule language by condensing a list of provisions excluded from incorporation by reference. Approval of these revisions will not impact air quality and ensures Federal enforceability of the State's rules. The EPA is proposing

to approve these SIP revisions in accordance with the requirements of the Clean Air Act (CAA).

DATES: Comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may send comments, identified by Docket ID No. EPA-R07-OAR-2023-0279 to www.regulations.gov. Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received will be posted without change to www.regulations.gov, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the "Written Comments" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Gerald McIntyre, Environmental Protection Agency, Region 7 Office, Air Permitting and Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (913) 608-8349; email address: mcintyre.gerald@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," and "our" refer to the EPA.

Table of Contents

I. Written Comments

- II. Background
- III. What is Being Addressed in this Document?
- IV. Have the Requirements for Approval of a SIP Revision Been Met?
- V. What Action is the EPA Taking?
- VI. Incorporation by Reference
- VII. Statutory and Executive Order Reviews

I. Written Comments

Submit your comments, identified by Docket ID No. EPA-R07-OAR-2023-0279, at www.regulations.gov. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

II. Background

The Cross-State Air Pollution Rule (CSAPR) addresses air pollution from upwind states that crosses state lines and affects air quality in downwind states. CSAPR requires fossil fuel-fired electric generating units at coal-, gas-, and oil-fired facilities in 27 states, including Missouri, to reduce emissions to help downwind areas attain fine particle and/or ozone National Ambient Air Quality Standards (NAAQS).

EPA sets a pollution limit (emission budget) for each of the states covered by CSAPR. Authorizations to emit pollution, known as allowances, are allocated to affected sources based on these state emissions budgets. The rule provides flexibility to affected sources, allowing sources in each state to determine their own compliance path. This includes adding or operating control technologies, upgrading or improving controls, switching fuels, and using allowances. Sources can buy and sell allowances and bank (save) allowances for future use as long as each source holds enough allowances to account for its emissions by the end of the compliance period. Allowance transfers between sources within the CSAPR SO₂ Group 1 Trading Program are

allowed with the approval of the Administrator, subject to the procedures and requirements of 40 CFR part 97.

Missouri adopted EPA's SO₂ Group 1 Trading Program in 40 CFR 97.604 through 40 CFR 97.628, with certain exceptions, in 10 Code of State Regulations (CSR) 10-6.376. EPA finalized its approval of 10 CSR 10-6.376 into Missouri's SIP on December 4 2019, thereby granting Missouri the responsibility to implement the CSAPR SO₂ Annual Trading Program in Missouri (see 84 FR 66316). 10 CSR 10-6.376 includes a list of CSAPR SO₂ Group 1 units and their corresponding allowances that have been allocated to each unit.

Iatan Generating Station Unit 1 (Iatan Unit 1) is owned by two electric utility companies: Evergy, formerly Kansas City Power and Light Company; and Liberty Utilities, formerly Empire District Electric. Asbury Power Plant (Asbury) is owned by Liberty Utilities. These sources have been allocated CSAPR SO₂ Group 1 allowances in 10 CSR 10-6.376. In 2015, Missouri revised 10 CSR 1-6.376 to reallocate 1,300 SO₂ emission allowances from Iatan Unit 1 to Asbury based on ownership share. Asbury was retired in March 2020. Therefore, Missouri revised 10 CSR 10-6.376 to transfer Asbury's 1,300 SO₂ emission allowances back to

Iatan Unit 1, and has requested that EPA approve the revision to 10 CSR 10-6.376 into Missouri's SIP.

III. What is Being Addressed in this Document?

The EPA is proposing to approve a SIP revision submitted by the State of Missouri on November 29, 2021. Missouri requests the EPA to approve revisions to 10 CSR 10-6.376 in the Missouri SIP. The state has revised the rule to reallocate 1,300 SO₂ emission allowances from the Asbury Power Plant, which was retired in March 2020, to Iatan Unit 1, which is the original emission unit for which the SO₂ allowances were allocated. This revision will only reverse the 2015 reallocation of the 1,300 SO₂ emission allowances from Iatan Unit 1 to Asbury. The total SO₂ allowances for Iatan Unit 1 will increase from 9,833 to 11,133. The total SO₂ allowances for Asbury will decrease from 4,480 to 3,180. Asbury's remaining 3,180 allowances will be transferred to the new unit set-aside and redistributed, as is the case for any unit that retires under CASPR.

Missouri has also clarified rule language by removing redundant language concerning provisions excluded from incorporation by reference. This revision also removes a provision that excluded incorporation by reference of any requirements imposed on any unit in Indian country within

the borders of any state in 40 CFR 97.602 through 40 CFR 97.635. These revisions are administrative in nature and does not impact the stringency of the SIP or air quality.

IV. Have the Requirements for Approval of a SIP Revision Been Met?

The State submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The State provided public notice on this SIP revision from April 15, 2021 to May 27, 2021 and received no comments.

In addition, as explained above, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations. The EPA proposes to find that the changes to the SIP do not reduce the stringency of the SIP or negatively affect air quality. As such, in accordance with section 110(l) of the CAA, this proposed revision does not interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of the CAA. Therefore, the EPA is proposing to approve Missouri's revisions to 10-6.376.

V. What Action is the EPA Taking?

The EPA is proposing to amend the Missouri SIP by

approving the State's request to revise 10 CSR 10-6.376 "Cross-State Air pollution Rule Annual SO₂ Group 1 Trading Program." We are processing this as a proposed action because we are soliciting comments on this proposed action. Final rulemaking will occur after consideration of any comments.

VI. Incorporation by Reference

In this document, the EPA is proposing to include regulatory text in an EPA final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference Missouri 10 CSR 10-6.376, discussed in section III of this preamble and as set forth below in the proposed amendments to 40 CFR part 52. The EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 7 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VII. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in

reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action

based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act;

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs Federal agencies to identify and address "disproportionately high and adverse human health or environmental effects" of their actions on minority populations and low-income populations to the greatest

extent practicable and permitted by law. EPA defines environmental justice (EJ) as "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies." EPA further defines the term fair treatment to mean that "no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies."

Missouri did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this action. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of EO 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,
Carbon monoxide, Incorporation by reference,
Intergovernmental relations, Lead, Nitrogen dioxide, Ozone,
Particulate matter, Reporting and recordkeeping
requirements, Sulfur oxides, Volatile organic compounds.

Dated: June 9, 2023.

Meghan A. McCollister,
Regional Administrator,
Region 7.

For the reasons stated in the preamble, the EPA
proposes to amend 40 CFR part 52 as set forth below:

PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as
follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart AA-Missouri

2. In § 52.1320, the table in paragraph (c) is amended by
revising the entry "10-6.376" to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

EPA-Approved Missouri Regulations

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
* * * * *				
Chapter 6-Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri				
* * * * *				
10-6.376	Cross-State Air Pollution Rule SO ₂ Group 1 Trading Program	7/29/2021	[Date of publication of the final rule in the Federal Register], [Federal Register citation of the final rule]	
* * * * *				

* * * * *

[FR Doc. 2023-12747 Filed: 6/16/2023 8:45 am; Publication Date: 6/20/2023]